



Reprinted
February 3, 2015

HOUSE BILL No. 1045

DIGEST OF HB 1045 (Updated February 2, 2015 4:59 pm - DI 123)

Citations Affected: IC 34-6; IC 34-31.

Synopsis: Recreational facility immunity. Specifies the duties and responsibilities of the users and the operator of a recreational facility operated by an elementary, secondary, or postsecondary educational institution. Specifies that the operator of such a recreational facility who fulfills the operator's duties and responsibilities has a complete defense to a civil action. Makes conforming amendments.

Effective: July 1, 2015.

Morrison, Bauer, DeVon

January 6, 2015, read first time and referred to Committee on Judiciary.
January 27, 2015, amended, reported — Do Pass.
February 2, 2015, read second time, amended, ordered engrossed.

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First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1045

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 34-6-2-91, AS AMENDED BY P.L.77-2013,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 91. (a) "Operator", for purposes of IC 34-30-3,
4 means a person who is an owner, a lessee, a tenant, or an occupant of
5 land or premises that are used in the production of agricultural
6 products.
7 (b) "Operator", for purposes of IC 34-31-6, means a person or an
8 entity, other than a governmental entity or an employee of a
9 governmental entity, that owns, manages, controls, directs, or has
10 operational responsibility for a roller skating rink.
11 (c) "Operator", for purposes of IC 34-31-6.5, means an approved
12 postsecondary educational institution (as defined in IC 21-7-13-6) that
13 owns, manages, controls, directs, or has operational responsibility for
14 an ice skating rink.
15 (d) "Operator", for purposes of IC 34-31-11, means an

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approved:

- (1) elementary school (as defined under IC 20-18-2-4);
- (2) secondary school (as defined under IC 21-12-1-5); or
- (3) postsecondary school (as defined under IC 21-7-13-6);

that owns, manages, controls, directs, or has operational responsibility for a recreational facility.

SECTION 2. IC 34-6-2-129.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 129.4. "Recreation", for purposes of IC 34-31-11, includes physical exercise, leisure, or sports.**

SECTION 3. IC 34-6-2-129.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 129.5. "Recreational facility", for purposes of IC 34-31-11, means a building, location, or area primarily designed and used for purposes of recreation. The term includes:**

- (1) a gymnasium;
- (2) a park;
- (3) a playground;
- (4) a swimming pool;
- (5) a fieldhouse;
- (6) a beach;
- (7) a stadium;
- (8) a golf course;
- (9) a campground;
- (10) a boat launching site;
- (11) an arboretum;
- (12) a bicycle path;
- (13) a bridle path;
- (14) a community center;
- (15) a bowling alley;
- (16) a billiard hall;
- (17) a court, field, or other area designated for sports; and
- (18) any other building, location, or area specifically set aside for recreation.

SECTION 4. IC 34-6-2-129.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 129.6. "Recreational user", for purposes of IC 34-31-11, means an authorized user of a recreational facility.**

SECTION 5. IC 34-31-11 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2015]:

Chapter 11. Limited Liability for Operators of Recreational Facilities

Sec. 1. (a) This chapter applies only to a recreational facility that is operated by an approved:

- (1) elementary school (as defined under IC 20-18-2-4);
- (2) secondary school (as defined under IC 21-12-1-5); or
- (3) postsecondary school (as defined under IC 21-7-13-6).

(b) This chapter does not apply to the operator of an ice skating rink that is described in IC 34-31-6.5.

Sec. 2. An operator shall do all the following with respect to a recreational facility:

(1) Post the:

(A) duties of recreational users; and

(B) duties, obligations, and liabilities of the operator;

as prescribed in this chapter in at least three (3) conspicuous locations in or along the recreational facility.

(2) Maintain the stability and legibility of all signs, symbols, and posted notices required by this chapter.

(3) This subdivision applies only to a recreational facility located in a building. When the recreational facility is open, at least one (1) floor supervisor must be on duty. A floor supervisor:

(A) must have received appropriate training to carry out the floor supervisor's duties; and

(B) must use reasonable care in carrying out the floor supervisor's duties.

(4) Maintain the floor or surface of the recreational facility in proper and reasonably safe condition.

(5) If the recreational facility is located in a building or includes a building, maintain in good and safe condition the areas of the building open to recreational users.

(6) Maintain equipment in good mechanical condition.

(7) Comply with all applicable state and local fire safety codes, building codes, and other safety codes applicable to a recreational facility.

Sec. 3. A recreational user shall do all the following:

(1) Maintain reasonable control of the recreational user's speed and course at all times.

(2) If the recreational user throws, rolls, or otherwise propels an object, use due care to avoid striking other persons.

(3) Use due care while operating or using equipment.



(4) Heed all posted signs and warnings.

(5) Maintain a proper view to avoid other recreational users, individuals, and objects.

(6) Accept the responsibility for the following:

(A) Knowing the range of the recreational user's ability.

(B) Using the recreational facility within the limits of the recreational user's ability.

(7) Refrain from acting in a manner that may cause or contribute to the injury of the recreational user or any other individual.

Sec. 4. (a) Recreational users are considered to:

(1) have knowledge of; and

(2) assume;

the risks of using the recreational facility.

(b) For purposes of this chapter, risks of using a recreational facility include the following:

(1) Injuries that result from collisions or incidental contact with other recreational users or other individuals who are properly present at the recreational facility.

(2) Injuries that result from falls caused by loss of balance.

(3) Injuries that involve objects or artificial structures that are not otherwise attributable to an operator's breach of the operator's duties or responsibilities under section 2 of this chapter.

(4) Injuries that result from the recreational user's violation of the recreational user's duties under section 3 of this chapter.

Sec. 5. (a) Except as provided in subsection (b) and notwithstanding IC 34-51-2-6 concerning comparative fault, the assumption of risk under section 4 of this chapter is a complete defense to an action against an operator by a recreational user for injuries and property damage resulting from the assumed risks.

(b) The following apply if an operator violates any of the operator's duties or responsibilities under section 2 of this chapter:

(1) The complete defense against an action against an operator under subsection (a) does not apply.

(2) The provisions of IC 34-51-2-6 apply.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1045, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 17, delete "duty for every one" and insert "**duty.**".

Page 3, line 18, delete "hundred seventy-five (175) recreational users.".

and when so amended that said bill do pass.

(Reference is to HB 1045 as introduced.)

STEUERWALD

Committee Vote: yeas 11, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1045 be amended to read as follows:

Page 2, line 1, delete "approved" and insert "**approved:**

(1) elementary school (as defined under IC 20-18-2-4);

(2) secondary school (as defined under IC 21-12-1-5); or

(3) postsecondary school (as defined under IC 21-7-13-6);".

Page 2, line 1, delete "postsecondary educational institution (as defined in".

Page 2, line 2, delete "IC 21-7-13-6)".

Page 3, line 2, delete "approved" and insert "**approved:**

(1) elementary school (as defined under IC 20-18-2-4);

(2) secondary school (as defined under IC 21-12-1-5); or

(3) postsecondary school (as defined under IC 21-7-13-6)".

Page 3, line 2, delete "postsecondary educational".

Page 3, delete line 3.

(Reference is to HB 1045 as printed January 27, 2015.)

MCMILLIN

